

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEONARDO DELIS, JR.,

Defendant.

2:09-CR-00386-JCM-GWF

ORDER

Presently before the court are the report and recommendation of United States Magistrate Judge George Foley Jr. (doc. # 47). Additionally before the court are defendant Delis' objections to Judge Foley's report and recommendation (doc. # 51) and the United States' opposition to defendant's objections (doc. # 54).

Upon reviewing defendant's motion to suppress involuntary and uncounseled statements (doc. # 27), Judge Foley recommended that the motion be denied.

After holding an evidentiary hearing, Judge Foley found "(1) that defendant was properly advised of his *Miranda* rights prior to any substantive interrogation, (2) that defendant voluntarily, knowingly and intelligently waived his rights, and (3) that defendant's subsequent admissions or confession were also voluntary."

Judge Foley found that the government's three witnesses, officers Booker and Wiese and detective Stuckey, had been credible in their testimony that the defendant had been Mirandized. The defendant objects to this finding, relying on the officers' participation in an allegedly unlawful stop of defendant's mother, and a statement in detective Stuckey's written report that she was told by the

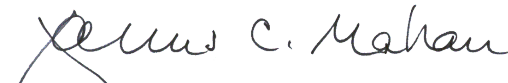
1 officers that the defendant did in fact initially refuse to talk about other crimes, in order to discount
2 the witness' credibility. However, Judge Foley accounted for these issues and held the witnesses to
3 be credible.

4 The defendant also objects to the recommendation's finding that his statements were made
5 voluntarily, asserting a lack of independent evidence suggesting that he agreed to speak with the
6 officers. However, after being presented with evidence, Judge Foley concluded that the defendant
7 was informed by the officers early on that they wanted to question him about burglaries or other
8 crimes, that he was asked at least three times after being advised of his rights whether he was
9 willing to talk to the officers, and that each time he stated that he was so willing.

10 Upon review of the magistrate judge's findings and recommendations (doc. # 47), the
11 defendant's objections to these findings and recommendations (doc. # 51), and the United States'
12 opposition to defendants' objections (doc. #54),

13 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that United States Magistrate
14 Judge George Foley Jr.'s report and recommendation (doc. #47) is AFFIRMED in its entirety.

15 DATED: January 5, 2011.

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18 JAMES C. MAHAN
United States District Judge